IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-09-2007

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THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.9189 of 2007 and
M.P.Nos.1 & 2 of 2007 and
W.P.No.11091 of 2007 and
M.P.No.1 of 2007

Writ Petition No.9189 of 2007:

M/s.Bhatia International Ltd.,
Rep. by Mr.B.Vijaya Kumar,
Assistant Manager (Imports),
BCC House, 8/5, Manorama Ganj,
Navratan Baug, Main Road,
Indore-1. .. Petitioner.

Versus

1.Commissioner of Customs,
Customs House,
No.33, Rajaji Salai,
Chennai-600 001.

2.Assistant Commisioner of Customs,
Customs House,
No.33, Rajaji Salai,
Chennai-600 001. .. Respondents.

Writ Petition No.11091 of 2007:

M/s.Dalmia Cements (Bharat) Limited
Represented by its
Asst. Executive Director (Legal)
Dalmiapuram-621 651. .. Petitioner.

Versus

Assistant Commissioner of Customs,
Group 2, Customs House,
33, Rajaji Salai, Chennai-600 001. .. Respondent.

Prayer in W.P.No.9189 of 2007: This writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus forbearing the respondents from levying additional duty

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(cess) at the rate of Rs.10 per tonne on the imported coal by the petitioner being collected by the respondents pursuant to the Notification No.S.O.727(E) dated 25.06.2003, and consequentially the levy of extra duty deposit of 1% in so far as the petitioner is concerned.

Prayer in W.P.No.11091 of 2007: This writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to direct the respondent to dispose of the demand made in S.Misc.40/2005 Gr.2 dated 19.04.2005, 26.4.2005, and two notices dated 10.5.2005 and to further direct the respondents to permit the import of coal without demanding Additional duties of Customs as per the decision of the Supreme Court in 2003(154) ELT 343 (TISCO), in as much as any levy/demand would offend Article 14, 19(1)(g) and 265 and consequently direct the respondent refund the duties paid on the import of coal under protest.

For petitioner in WP.11091/07 : Mr.R.Karthikeyan

For respondents in both WPs. : Mr.V.T.Gopalan (Senior Counsel) Additional Solicitor General of India.

COMMON ORDER

Today, when these matters are taken up for hearing, Mr.V.T.Gopalan, the learned Additional Solicitor General of India, has submitted that in respect of the issues raised in these writ petitions, a clarification, dated 16.07.2007, had already been issued by the Ministry of Finance, Department of Revenue, Central Board of Excise and A customs. The learned counsel had further submitted that in view of the clarifications issued, no further orders are necessary in the present petitions.

2. The learned counsel appearing for the petitioner has not refuted the submissions made by the Additional Solicitor General of India, appearing on behalf of the respondents.

3. In view of the above submissions, this Court is of the view that no further orders are necessary in these writ petitions. Accordingly, the writ petitions are disposed of. No costs. Consequently, connected MPs are closed.

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Asst. Registrar.

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Sub Asst. Registrar.

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To

1.Commissioner of Customs,
Customs House,
No.33, Rajaji Salai,
Chennai-600 001.

2.Assistant Commisioner of Customs,
Customs House,
No.33, Rajaji Salai,
Chennai-600 001.

3. Assistant Commissioner of Customs,
Group 2, Customs House,
33, Rajaji Salai, Chennai-600 001.

+ 1 CC To Mr. R.Karthikeyan, Advocate SR NO.57900

+ 1 CC To M/s.Shivakumar & Suresh, Advocates SR NO.57829

+ 1 CC To Mr. P.Wilson, Asst. Solicitor General of India, Advocate SR NO.58151

Writ Petition No.9189 and 11091 of 2007

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